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United Nations Commission on International Trade Law
Working Group V (Insolvency Law)
Forty-seventh session
New York, 26-29 May 2015

Annotated provisional agenda for the forty-seventh session of Working Group V (Insolvency Law)

I. Provisional agenda

1. Opening of the Working Group session.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of insolvency topics.
5. Other business.
6. Adoption of the report of the Working Group.

II. Composition of the Working Group

1. The Working Group is composed of the following States: Algeria, Argentina, Armenia, Australia, Austria, Belarus, Botswana, Brazil, Bulgaria, Cameroon, Canada, China, Colombia, Côte d'Ivoire, Croatia, Denmark, Ecuador, El Salvador, Fiji, France, Gabon, Georgia, Germany, Greece, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Kuwait, Liberia, Malaysia, Mauritania, Mauritius, Mexico, Namibia, Nigeria, Pakistan, Panama, Paraguay, Philippines, Poland, Republic of Korea, Russian Federation, Sierra Leone, Singapore, Spain, Switzerland, Thailand, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Zambia.

2. States not members of the Commission and international governmental organizations may attend the session as observers and participate in the

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deliberations. In addition, invited international non-governmental organizations may attend the session as observers and represent the views of their organizations on matters where the organization concerned has expertise or international experience so as to facilitate the deliberations at the session.

III. Annotations to agenda items

Item 1. Opening of the session

3. The forty-seventh session of Working Group V (Insolvency Law) is scheduled to be held in New York from Tuesday 26 to Friday 29 May 2015. *Please note that there will be no meetings on Monday, 25 May 2015 as it is an official holiday in the United States.* Meeting hours will be from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., except on Tuesday, 26 May 2015 which will commence at 10.30 a.m.

Item 2. Election of officers

4. In accordance with its practice at previous sessions, the Working Group may wish to elect a Chairman and a Rapporteur.

Item 4. Consideration of insolvency topics

5. The Working Group will have before it working papers addressing the following three topics.

(1) Facilitating the cross-border insolvency of multinational enterprise groups

6. At its forty-fourth session (December 2013), the Working Group agreed to continue its work on cross-border insolvency of multinational enterprise groups by developing provisions on a number of issues, some of which would extend the existing provisions of the UNCITRAL Model Law on Cross-Border Insolvency and part three of the UNCITRAL Legislative Guide on Insolvency Law and involve reference to the UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation (A/CN.9/798, para. 16). The deliberations that took place during the Working Group's forty-fifth (April 2014) (A/CN.9/803) and forty-sixth sessions (December 2014) (A/CN.9/829) will continue at the forty-seventh session.

(2) Obligations of directors of enterprise group companies in the period approaching insolvency

7. At its forty-fourth session, the Working Group agreed on the importance of addressing the obligations of directors of enterprise group companies in the period approaching insolvency, given that there were clearly difficult practical problems in that area and that solutions would be of great benefit to the operation of efficient insolvency regimes. At the same time, the Working Group noted that there were issues that needed to be considered carefully so that solutions would not hinder business recovery, make it difficult for directors to continue to work to facilitate that recovery, or influence directors to prematurely commence insolvency proceedings. In light of those considerations, the Working Group agreed that an examination of how part four of the Legislative Guide could be applied in the enterprise group context and identification of additional issues (e.g. conflicts between a director's

duty to its own company and the interests of the group) would be helpful. The discussion of draft recommendations that commenced at the forty-sixth session (December 2014) (A/CN.9/829) will continue at the forty-seventh session.

(3) Recognition and enforcement of insolvency-related judgements

8. At its forty-fourth session, Working Group V had agreed (A/CN.9/798, para. 30) that at an appropriate time it should seek a mandate from the Commission to commence work on the recognition and enforcement of insolvency-related judgements, which had been discussed at the colloquium held in conjunction with the Working Group's forty-fourth session in December 2013 (A/CN.9/815). At its forty-fifth session, the Working Group agreed (A/CN.9/803, para. 39(b)) that it should seek that mandate from the Commission at its forty-seventh session (2014). At that session, the Commission agreed that, in addition to topics 1 and 2 above, Working Group V's other priority should be to develop a model law or model legislative provisions to provide for the recognition and enforcement of insolvency-derived judgements, which was said to be an important area for which no explicit guidance was contained in the UNCITRAL Model Law on Cross-Border Insolvency. The Commission approved a mandate accordingly (A/69/17, para. 155). The discussion on this topic commenced at the Working Group's forty-sixth session (December 2014) (A/CN.9/829) and will continue at the forty-seventh session.

(4) Documentation for the forty-seventh session

9. The Working Group will have before it notes by the Secretariat on (a) Facilitating the cross-border insolvency of multinational enterprise groups (A/CN.9/WG.V/WP.128); (b) Obligations of directors of enterprise group companies in the period approaching insolvency (A/CN.9/WG.V/WP.129); and (c) Recognition and enforcement of insolvency-related judgements (A/CN.9/WG.V/WP.130).

10. In planning the attendance of their representatives, States and interested organizations may wish to note the following background documents:

(a) The UNCITRAL Legislative Guide on Insolvency Law (2004), including parts three (2010) and four (2013); and

(b) The UNCITRAL Model Law on Cross-Border Insolvency (1997).

11. UNCITRAL documents are posted on the UNCITRAL website (www.uncitral.org) upon their issuance in all the official languages of the United Nations. Delegates may wish to check the availability of the working papers by accessing the Working Group's page in the "Working Groups" section of the UNCITRAL website.

Item 6. Adoption of the report

12. The Working Group may wish to adopt, at the close of its session, a report for submission to the forty-eighth session of the Commission planned to be held in Vienna, from 29 June to 16 July 2015. The report will include the main conclusions reached by the Working Group. The substance of the Working Group's deliberations at its meeting on Friday morning will be summarily read out for the record and subsequently incorporated into the report.

IV. Scheduling of meetings

13. The Working Group's forty-seventh session will last for four working days. *Please note that there will be no meetings on Monday, 25 May 2015 as it is an official holiday in the United States.* The Working Group may wish to note that, consistent with decisions taken by the Commission at its thirty-fourth session, the Working Group is expected to hold substantive deliberations in the allocated time. The report is to be adopted at the last meeting of the Working Group (on Friday afternoon).